

AO 245B Judgment in a Criminal Case - D. Massachusetts
Statement of Reasons - Sheet 1UNITED STATES DISTRICT COURT
District of MassachusettsUNITED STATES OF AMERICA
V.

MICHAEL WHITMORE

STATEMENT OF REASONS

Case Number: 1: 04 CR 10090 - 001 - WGY

Harold Hakala

Defendant's Attorney



The court adopts the factual findings and guideline application in the presentence report.

OR



The court adopts the factual findings and guideline application in the presentence report, except (see attachment, if necessary):



See Continuation Page

Guideline Range Determined by the Court:

Total Offense Level:	<u>17</u>		
Criminal History Category:	<u>VI</u>		
Imprisonment Range:	<u>51</u>	to	<u>63</u> months
Supervised Release Range:	<u>2</u>	to	<u>3</u> years
Fine Range:	\$ <u>\$5,000.00</u>	to	\$ <u>\$50,000.00</u>

Defendant's Soc. Sec. No.: xxx-xx-7873Defendant's Date of Birth: 82Defendant's USM No.: 25125-038

Defendant's Residence Address:

06/15/05

Date of Imposition of Judgment

William G. Young
Signature of Judicial Officer

The Honorable William G. Young

Judge, U.S. District Court

Name and Title of Judicial Officer

June 14, 2005
Date

Defendant's Mailing Address:

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DEFENDANT: MICHAEL WHITMORE

CASE NUMBER: 1: 04 CR 10090 - 001 - WGY

STATEMENT OF REASONS☒ Fine waived or below the guideline range because of inability to pay.Total Amount of Restitution: \$ ☐ Discretionary restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(a)(B)(ii) (or in offenses committed before April 23, 1996, pursuant to 18 U.S.C. § 3663(d)).☐ Restitution pursuant to the mandatory victim restitution provisions is not ordered in this title 18 property offense because the number of identifiable victims is so large as to make restitution impracticable, pursuant to 18 U.S.C. § 3663A(c)(3)(A).☐ Restitution pursuant to the mandatory victim restitution provisions is not ordered in this title 18 property offense because determining complex issues of fact and related to the cause of amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process, pursuant to 18 U.S.C. § 3663A(c)(3)(B).☐ For offenses committed on or after September 13, 1994 but before April 23, 1996 that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.☐ Partial restitution is ordered, pursuant to 18 U.S.C. § 3553(c), for the following reason(s):

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DEFENDANT: MICHAEL WHITMORE
CASE NUMBER: 1: 04 CR 10090 - 001 - WGY

STATEMENT OF REASONS

☒ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reasons:

OR

☐ The sentence departs from the guideline range:

☐ upon motion of the government, as a result of a defendant's substantial assistance, or

☐ for the following specific reason(s):

☐ See Continuation Page

1 **THE COURT:** Thank you.

2 Mr. Michael Whitmore, in consideration of the
3 offense of which you stand convicted, all the criteria of 18
4 United States Code 3553, the arguments of the government,
5 your counsel and yourself, this Court sentences you to
6 custody in the Bureau of Prisons for a term of 51 months;
7 thereafter, a period of supervised release of three years;
8 no fine due to your inability to pay a fine; and a special
9 assessment of \$100.

10 The special conditions of your supervised release
11 are that you are prohibited from possessing a firearm or
12 other dangerous weapon. You're to participate in a program
13 for substance abuse which program may include testing not to
14 include -- not to exceed, excuse me, 104 drug tests per
15 year.

16 You shall attend a public, private or nonprofit
17 domestic violence offender rehabilitation program approved
18 by the Court if available within a 50-mile radius. You
19 shall submit to the taking of a DNA sample.

20 Mr. Whitmore, let me explain this sentence. I hear
21 you say you want another chance. You're not deserving of
22 another chance. I gave you a sentence more than twice as
23 long as any sentence you've served already. And the reason
24 for that is you've got the proverbial record as long as your
25 arm.

1 So, when you say those words, in all honesty, sir,
2 I pray that they're the truth. But as a judge who does this
3 every day, I don't see too much behind the words. You're
4 saying the right things, but you've had sentences before and
5 you haven't flown straight.

6 So now you get double any sentence you've had
7 before. And that's a very blunt way of trying to get the
8 message across. And while it's not my purpose to threaten,
9 nor my business, I know how the courts work. You've got to
10 do this sentence, then you've got three years of supervised
11 release to do. And you be sure you tow the line during that
12 period of supervised release because no judge, including me,
13 is going to be very tolerant if you mess up during those
14 three years.

15 Now, that's, you know, close on seven years are
16 going to go by. You're going to be an older and more mature
17 individual. Let me tell you this. You come back before any
18 court, state court, federal court, and you offend in this
19 manner again, with drugs or guns or an offense of that
20 nature, the judge is going to look to double what I just
21 gave you. You've got to understand that. Because that's
22 the only way that society, through the courts and the
23 judges, think they can communicate with you.

24 Now, having said that, I truly pray that you mean
25 what you just said to me.

1 You'll get credit toward the service of this
2 sentence from the period from -- well, is it February 26th?
3 It says he was in Massachusetts state custody on the instant
4 charge. So it should be December 27th, 2003.

5 **THE PROBATION OFFICER:** Actually it's September,
6 yes, September 27th, 2003. Because that was the --

7 **THE COURT:** The sentence.

8 **THE PROBATION OFFICER:** No, actually the September
9 to December?

10 **THE COURT:** Oh, you're absolutely right.

11 **THE PROBATION OFFICER:** There was -- that period of
12 time was not attributed to a state sentence.

13 **THE COURT:** And then he was --

14 **THE PROBATION OFFICER:** It was dismissed.

15 **THE COURT:** -- released on bond.

16 **THE PROBATION OFFICER:** Correct. And then he came
17 into our custody.

18 **THE COURT:** Let me say it then.

19 **THE PROBATION OFFICER:** So that should go all the
20 way back.

21 **THE COURT:** You will have credit from September 27,
22 2003 through December 27, 2003, and from February 26th, 2004
23 towards the service of that sentence.

24 You have the right to appeal from any findings or
25 rulings the Court may have made against you. Should you

1 appeal and should your sentence be reversed in whole or in
2 part -- excuse me -- the case will be redrawn to another
3 judge for resentencing.

4 That's the order of the Court. He's remanded to
5 the custody of the marshals.

6 **THE DEFENDANT:** Thank you, your Honor.

7 **MR. HAKALA:** Thank you, your Honor.

8 (Whereupon the matter concluded.)
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